

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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RONALD DAVIDSON, *pro se*,

Plaintiff,

-against-

J. TAN M.D.; JAMES WEISBERGER, M.D.;  
GENPATH INC.,

Defendants.

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**IRIZARRY, DORA L., United States District Judge.**

This *pro se* action is brought, pursuant to the Court's diversity jurisdiction, for medical malpractice and negligence. Plaintiff, a former resident of Brooklyn, New York, is currently incarcerated at Shawangunk Correctional Facility. Defendants are all located in New Jersey. Plaintiff alleges that, on or about August 2005, a sample of plaintiff's tissue was sent for testing to defendants' laboratory, and the sample was misdiagnosed. Plaintiff further alleges that, as a result of this misdiagnosis, he "underwent a second and needless surgical re-excision." (Compl. 2, ¶ 12.) Without offering any opinion on the merits of plaintiff's claim, this complaint is transferred to the United States District Court for the District of New Jersey for the following reason:

Under 28 U.S.C. § 1391, a civil rights action may

be brought only in (1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of the property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought.

28 U.S.C. § 1391(b).

Since defendants are deemed to reside in New Jersey, and the events or omissions giving rise to plaintiff's claim occurred in New Jersey, this action is hereby transferred to the United States District Court for the District of New Jersey. 28 U.S.C. §§ 1391(b), 1406(a).

The Clerk of Court is directed to transfer this case to the United States District Court for the District of New Jersey. A ruling on plaintiff's application to proceed *in forma pauperis* and plaintiff's application for appointment of counsel are reserved for the transferee Court. The provision of Rule 83.1 of the Local Rules of the Eastern District of New York that requires a five-day delay is waived.

SO ORDERED.

Dated: Brooklyn, New York  
March 21, 2008

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DORA L. IRIZARRY  
United States District Judge